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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,865	11/24/2003	William P. Camp JR.	03-03-us	5679

7590  
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03/15/2010

EXAMINER
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CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/720,865	<b>Applicant(s)</b> CAMP, WILLIAM P.	
	<b>Examiner</b> /Stephen J. Castellano/	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-7, 16 and 21-38 is/are pending in the application.
- 4a) Of the above claim(s) 34 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7, 16, 21-33 and 36-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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In view of the appeal brief filed on December 21, 2009, PROSECUTION IS HEREBY REOPENED. New grounds of rejection have been set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Anthony Stashick/

Supervisory Patent Examiner, Art Unit 3781

Claims 1-4, 8-15 and 17-20 have been canceled. Claims 5-7, 16 and 21-38 are pending.

Claims 34 and 35 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claims 5-7, 16, 21-33 and 36-38 will be treated according to their merits.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 6-7, 16, 21-23, 25-29 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "said latch" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "each recess" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "each recess" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 recites the limitation "said upper surface" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 24 and 36-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Dooley et al. (4899904) (Dooley).

Dooley discloses an insulated container comprising a container body (60) a lid (48) and an insulating layer (62) and a liner (64) configured to be removable and reusable and fits substantially within the container body wherein the liner is manufactured from a rigid material. The insulating layer (62) has an elongated insulated partition (sloped section 66 which consists of a top wall and two walls which extend downwardly from the top wall) separating the

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insulating layer into two compartments or coupling cavities. The elongated partition extends between the insulating bottom wall and the lid. The liner 62 has a channel fitting over the insulating partition and a lip at the upper edge.

Each compartment is substantially thermally isolated from one another because a cold item (e.g., frozen item at less than 0 degrees C) placed in a first compartment will not absorb heat from an item of elevated temperature (e.g., item at more than 25 degrees C) placed in the second compartment. The partition wall separates the items so that no direct contact between the items is established. The upper limit of the compartments is selected to be no higher than the height of the partition. Although air may flow into and out of both compartments into the space above the compartments, there is no air movement means (e.g., fan or blower) that transfers an appreciable amount of air. The compartments remain “substantially thermally isolated” insofar as this term is interpreted when read in light of the specification. The term “substantially” is interpreted to mean “more than 50%.” Since the compartment is thermally isolated to a degree close to and essentially 100% on the rear, front, bottom and side walls and this portion exceeds 50% of the outer surface area of the compartment, then the substantially thermally isolated limitation is quantitatively met. In addition, the amount of heat transfer from air at the open top of the compartment is believed minimal because of the absence of air movement means.

The liner 64 approximately conforms to the contours of the insulating layer 62. Liner 64 has four upstanding walls, a bottom wall and a channel which runs in an inverted U-shaped cross section from the front wall to the back wall such that the inside top surface of the partition formed by the channel defines an upwardly extending slope from front to back. This contour is extremely definitive and matches that of the insulating liner. The liner deviates only in the

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height of the side walls of the channel/partition. Such deviation is minimal in comparison to the entire liner structure.

Re claims 36 and 37, Dooley's liner comprises a pair of side walls with an elongated channel therebetween that is open at the underside of the channel, the partition fits into the channel.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 24 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Shook et al. (4106597) (Shook).

This rejection is made insofar as the compartments may be deemed to be not sufficiently thermally isolated.

Shook teaches open top compartments with partition walls extending to an inner lid 28 which compartments become closed by said inner lid 28 which has an insulated foam lining to seal the open top compartments to substantially thermally isolate to a 100% degree the compartments. It would have been obvious to modify the partition walls of Dooley to extend to close proximity to the lid and to include an inner lid with foam lining to substantially seal the compartments in order to achieve a 100% degree of thermal isolation for each compartment.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Lytle (4293079) and Ragland (6305299).

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Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Shook as applied to claim 5 above, and further in view of Lytle and Ragland.

The combination discloses the invention except for the latch arrangement.

Ragland teaches a latch to removably attach a full height liner. Lytle teaches latches on oppositely disposed upstanding wall for a partial liner (as it extends only at the topmost portion of the interior of the container body). It would have been obvious to add the plurality of latches to opposed upstanding walls to secure a removable liner with a body cavity to allow separate cleaning of a soiled liner or allow separate replacement of a damaged liner. Lytle's liner discloses the flexible arm and hook received within a slot arrangement and open area between the channel formed by the upper lip and sidewall of the liner and the inner surface of the body sidewall that can vent trapped air.

Claims 16, 21-23, 25 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Gale (6527116) and Henry, Jr. (6325210) (Henry).

Re claims 16, 21-23 and 30, Dooley discloses the invention except for the three portions, first portion, second portion and third portion. The three portions are not claimed to be three distinct recesses which are concentrically located with respect to each other. Only three progressively smaller cross-sectional shapes are claimed.

Gale teaches a bottom insert having bottom cup portions for the bottles. Three horizontal cross sections taken at three different heights of the bottom cup portion of Gale would lead to three cylindrical portions having three different diameters. That is, Gale discloses three portions with cylindrical cross sections. In addition, the recesses of Gale are configured to effectively secure two profiles of a wine bottle: (1) the wider base and (2) the narrow neck or cap/cork at the

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upper region. Henry discloses a similar carrier for wine bottles wherein the bottom of the wine bottles can be wedged in place (see col. 2, lines 12-25 for teachings of tray 30 with a bottle pressed into pocket and wedged in place. It is known that there are a wide variety of containers of different volume and that these containers all have different diameters, cans have narrow profiles of smaller diameter than cans of wider profile of greater diameter, a wine bottle has a wider profile of greater diameter, and a two-three liter soda bottle has a wider profile of greater diameter. It would have been obvious to modify the liner to include three portions with cylindrical cross sections with the dimensions of the portions being approximately 2.6, 2.3, 2 inches, respectively, to hold a plurality of different sized containers by incorporating three distinct diameters which correspond to the base diameters of three different containers in order to expand the usage of a container from a single container to multiple containers and/or by incorporating three or more diameters which correspond to the multiple profiles of a single container to expand the usage of the container to hold a container in more than one orientation.

Re the liner approximately conforms with the contours of the insulating layer, the insulating layer would further deviate from the contour of the bottom wall. The front, rear and side walls as well as portions of the bottom wall still conform with the contour of the insulating layer and these portions represent well over 50% of the liner/insulating layer facing, congruent or contacting surface area. For this reason, the liner approximately conforms with the contours of the insulating layer.

Re the recess in the lower surface of the lid (claim 30), Dooley discloses the invention except for the recess in the underside of the lid. Gale teaches a recess on the underside of a lid aligned with a corresponding cavity for supporting an upright object (e.g. wine bottle). Henry



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teaches a similar recess on the underside of the lid. It would have been obvious to add the recess on the underside of a lid to provide a lid support to an upright object to prevent falling of the objects and possible damage from similar objects being broken during bumpy transport.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Gale and Henry as applied to claim 25 above, and further in view of Potts et al. (5350078) (Potts).

The cross sectional shapes of Gale and Henry are circular rather than polygonal. Potts teaches that bottles with polygonal cross-sections are known. It would have been obvious to modify the shape of the cross-section from circular to polygonal in order to have a corresponding shape to the shape of a polygonal bottle.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Gale and Henry as applied to claim 30 above, and further in view of Testa, Jr. (5305544) (Testa) and Torokvei (4040517).

The upper side of the lids of Dooley, Gale and Henry fail to disclose recesses or domes. Testa teaches a recess for supporting the bottom end of a beverage container. Torokvei teaches a dome (dome shaped projection 38) which is situated within a beverage container recess. It would have been obvious to add the recess and dome to provide a stable support for a beverage container on the upper side of a lid.

Claims 16, 21-23, 25 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Shook, Gale and Henry.

The Dooley-Shook combination is applied as previously stated. Gale and Henry are applied as previously stated.

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Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Gale and Henry as applied to claim 30 above, and further in view of Lytle and Ragland.

Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Shook, Gale and Henry as applied to claim 30 above, and further in view of Lytle and Ragland.

The combination discloses the invention except for the latch arrangement.

Ragland teaches a latch to removably attach a full height liner. Lytle teaches latches on oppositely disposed upstanding wall for a partial liner (as it extends only at the topmost portion of the interior of the container body). It would have been obvious to add the plurality of latches to opposed upstanding walls to secure a removable liner with a body cavity to allow separate cleaning of a soiled liner or allow separate replacement of a damaged liner. Lytle's liner discloses the flexible arm and hook received within a slot arrangement and open area between the channel formed by the upper lip and sidewall of the liner and the inner surface of the body sidewall that can vent trapped air.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Shook as applied to claim 37 above, and further in view of Bartholomew (5027972).

The combination discloses the invention except for the rib. The lid of Bartholomew contains rib 34 which abuts a pair of side walls of a partition. It would have been obvious to modify the lid of the combination to include a rib that engages a pair of partition side walls to seal the adjacent compartments separated by the side walls to prevent cross contamination between these two adjacent compartments.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/  
Primary Examiner  
Art Unit 3781

sjc